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File

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

IN RE:
MATERIAL SUBPOENAED BY THE
GRAND JURY IN UNITED STATES
v. DREXLER, et al.

RECEIVED
JAN -6 1984
WASTE MANAGEMENT BRANCH
AFFIDAVIT OF MICHAEL BROWN

I, MICHAEL BROWN, being duly sworn, hereby make the following statements based upon information obtained by me personally during the course of my official duties.

1. I am employed by the United States Environmental Protection Agency, Region 10, located at 1200 Sixth Avenue, Seattle, Washington 98101 as an Environmental Engineer, and have been so employed since 1979. Part of my official duties as an Environmental Engineer include responsibility for inspecting and reporting compliance status of waste sites subject to the requirements of the Resource Conservation and Recovery Act (RCRA) 42 U.S.C. §6901 et seq.

2. On April 27, 1983 under Docket #X83-04-02-3008, EPA Region 10 issued a Complaint and Administrative Compliance order pursuant to Section 3008 of RCRA to Arrcom Inc., Drexler Enterprises Inc., George W. Drexler, Thomas Drexler, W.A. Pickett and Warren Bingham for violations of

1 RCRA at a site generally described as "A portion of tracts 17 and 24 of
2 Plat No. 2, GREENACRES IRRIGATION DISTRICT in Section 10 Township 51 North,
3 Range 5 West, B.M. Kootenai County, Idaho", and fixtures appurtenant thereto,
4 generally known as the "Rathdrum" site. The Complaint, which proposed to
5 assess administrative penalties in the amount of \$75,925.00 was based on
6 violations involving operation of a facility for the treatment, storage,
7 and/or disposal of hazardous waste. EPA has information that the subject
8 individuals and entities were also generators of hazardous waste.

9 3. In addition to the various violations of RCRA for which EPA proposes
10 to assess civil penalties, on or about September 19, 1983, pursuant to
11 the authority contained Comprehensive Environmental Response, Compensation
12 and Liability Act of 1980, 42 U.S.C. §9601 et seq, known as "CERCLA" or
13 "Superfund", the Environmental Protection Agency spent approximately
14 \$70,000 to perform an immediate removal and cleanup at the site. This
15 emergency action was based on the fact that the individuals named in the
16 complaint spilled and/or disposed hazardous waste or hazardous waste
17 constituents into the soil surrounding the facility, which overlies the
18 Spokane Valley/ Rathdrum Prairie Aquifer, and is the designated sole-source
19 aquifer supplying drinking water as well as crop irrigation for some
20 350,000 people in the region. Samples taken during a field inspection
21 in June of 1983 indicated the presence of PCBs, toluene, methylene
22 chloride, tetrachloroethylene, ethyl benzene, xylene and acetone in the
23 tanks and tank trucks on-site which presented an immediate threat to
24 public health.

25 4. Despite the issuance of the Complaint and Compliance Order issued to
26 the Drexlers and their various business entities, under the authority of
27 RCRA, they have largely ignored EPA's Orders and civil penalty proposed
28 dollar assessment.

1 5. On or about July 15, 1982, at a meeting at Drexler facilities at
2 1930 "C" Street, Tacoma, Washington 98402, George Drexler advised me that
3 all of his files relating to his business operations had been subpoenaed
4 for grand jury proceedings. Subsequent to that time I learned that the
5 materials in question contained names of individuals and companies whom
6 the Drexlers and their various companies collected waste oil from, check
7 stubs, bank records and other information which would aid me in identifying
8 potentially responsible parties, both for purposes of the RCRA civil penalty
9 assessment, as well as the potential for cost recovery for the \$70,000 of
10 public trust monies spent by EPA in removing the health threat posed by
11 the Rathdrum site. It is my belief that the records in question are originals,
12 and are not otherwise available to EPA.

13 6. Unless and until EPA is allowed access to company records which have
14 been the subject of a grand jury subpoena, our efforts at enforcing Federal
15 environmental laws and identifying potentially responsible parties for purposes
16 of civil penalty assessments and/or reimbursement of public trust monies
17 expended from the Superfund account, will be substantially impaired.

18
19 Signed this 5 day of Jan, 1984.

20
21 Michael J. Brown

22
23 Subscribed to and sworn before me this 5th day of JANUARY 1984.

24
25 Valerie D. Padon
26 NOTARY PUBLIC in and for the State of
27 Washington, residing at Seattle

Source notes on Affidavit

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

DRAFT

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Hotosodrum Report

EPE
Report
Superfund
file

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proposed
dollar
assessment

19302 Street
Tacoma, WA 98402

Drexler Facilities in Tacoma

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4 to that time I learned that the materials in question contained names of
5 individuals and companies whom the Drexlers and their various companies
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14 for purposes of civil penalty assessments and/or reimbursement of public
15 trust monies expended from the Superfund account, will be substantially
16 impaired.

17
18 Signed this _____ day of _____, 1984.

CAVIT GET ELSEWHERE..

19
20 _____
21
22 Subscribed to and sworn before me this _____ day of _____, 1984.

23
24
25 NOTARY PUBLIC in and for the State of
26 Washington, residing at Seattle

no later than March 23, 1978. All comments received will be made available to the public. Copies of all comments received and a verbatim transcript of the meeting will be available for public inspection and copying during normal working hours at the U.S. Environmental Protection Agency's Public Information and Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

All communications and correspondence should be directed to U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, MD-12, Research Triangle Park, N.C. 27711, Attn.: Mr. Joseph Padgett, 919-541-5204.

Dated: February 2, 1978.

EDWARD F. TUERK,
Acting Assistant Administrator
for Air and Waste Management.

[FR Doc. 78-3476 Filed 2-8-78; 8:45 am]

[6560-01]

[FRL 831-31]

**SPOKANE VALLEY-RATHDRUM PRAIRIE
AQUIFER**

Determination

Notice is hereby given that pursuant to section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) the Administrator of the Environmental Protection Agency has determined that the Spokane Valley-Rathdrum Prairie Aquifer is the sole or principal source of drinking water for an area in Idaho and Washington. The Aquifer supplies water to public water supplies and individual wells in Kootenai County, Idaho, and Spokane County, Wash.

BACKGROUND

The Safe Drinking Water Act was enacted on December 16, 1974. Section 1424(e) of the Act states: "(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the FEDERAL REGISTER. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer."

During the fall 1976, petitions were presented on behalf of the Idaho Co-

alition for Shorelands Preservation, Spokane Audubon Society, Spokane Vera Valley Citizens Committee, and Spokane Sierra Club urging the U.S. Environmental Protection Agency to make a "Sole Source" determination under section 1424(e) for the Spokane Valley-Rathdrum Prairie Aquifer in Idaho and Washington. The petitioners are interested in protecting their drinking water source from contamination. They desire controls which are not tied to local politics and industrial and commercial influence. A Notice of Receipt of this petition, together with a request for comments, was published in the FEDERAL REGISTER on January 31, 1977. In response to the notice and request for comments, written comments were received from both the public and private sectors. On March 4, 1977, the EPA held a public hearing in Spokane, Wash., to hear the views of interested persons on the Spokane Valley-Rathdrum Prairie Aquifer issue.

Among the determinations which the Administrator must make in connection with the designation of an area under section 1424(e) are: (1) Is the Aquifer the area's sole or principal source Aquifer of water supply, and (2) if contaminated, would a significant hazard to public health be created? EPA does not construe this provision to require a determination that projects planned or likely to be constructed will in fact create such a hazard; it is sufficient to demonstrate that approximately 338,000 people depend on the Spokane Valley-Rathdrum Prairie Aquifer as their principal source of drinking water, and that the aquifer is vulnerable to contamination through its recharge zone. Obviously, threats to the quality of the drinking water supply for such a large population could create a significant hazard to public health.

In public comments, the view was expressed that EPA should refrain from designating the Aquifer because a system of State and local controls to prevent contamination already existed or special 208 studies would promote the controls needed. While the existence and effectiveness of local controls are clearly relevant to the question of reviewing future Federal financially assisted projects, section 1424(e) does not make designation contingent on the absence of State or local regulations. Therefore, these factors do not properly bear on the decision whether or not to designate the Aquifer.

**A. DESIGNATION OF "SOLE SOURCE"
AQUIFER**

The Agency has carefully reviewed both the data presented at the public hearing for the Spokane Valley-Rathdrum Prairie Aquifer and subsequent written comments. Most speakers at

the hearing expressed the view that the Aquifer provided the sole source of drinking water for a large area in Idaho and Washington and that there would be a danger to public health if it were contaminated. A "sole source or principal source aquifer" means an aquifer which supplies 50 percent or more of the drinking water for an area (large territory, usually encompassing more than one county).

On the basis of the substantial amount of information which is available to this Agency and that presented by the public, the Administrator has made the following findings, which are the basis for the determination noted above:

1. The Spokane Valley-Rathdrum Prairie Aquifer is the "sole source" of high quality drinking water for over 338,000 people, including cities and towns and people using individual wells. Current water supply treatment practice is limited to minimal disinfection for some systems and no treatment for other systems for drinking purposes, and there is no alternative source of drinking water supply which could economically replace the Spokane Valley-Rathdrum Prairie Aquifer.

2. The Aquifer is vulnerable to contamination through its recharge zone primarily because the glaciated soils which are highly permeable. There is evidence of localized contamination from industrial sources and septic tanks. Since contamination of a ground water aquifer can be difficult or impossible to reverse, contamination of the Spokane Valley-Rathdrum Prairie Aquifer could pose a significant hazard to those people dependent on the aquifer for drinking purposes.

**B. DESCRIPTION OF SPOKANE VALLEY-
RATHDRUM PRAIRIE AQUIFER RE-
CHARGE AND STREAMFLOW SOURCE
ZONE**

The Aquifer begins in Idaho near Spirit Lake and Pend Oreille Lake stretching through the Rathdrum Prairie and into the Washington Spokane Valley through the City of Spokane, terminating at the confluence of the Spokane River and Little Spokane River. The Aquifer consists of unconsolidated glacial deposits which have a high capacity to store and transmit large quantities of water.

Section 1424(e) of the Act requires that after publication of the Administrator's decision, "no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health . . ." The recharge zone is that area through which water enters or could enter into the aquifer. This

recharge zone in the case of the Spokane Valley-Rathdrum Prairie Aquifer is the land area directly overlying and adjacent to the Aquifer. The Aquifer extends from near Spirit Lake and Pend Oreille Lake in Bonner and Kootenai Counties, Idaho, southwest across the Rathdrum Prairie and down the Spokane Valley to the Little Spokane River and the Spokane River in Spokane County, Wash., and it includes the cities of Spirit Lake, Athol, Rathdrum, Hayden Lake, Coeur d'Alene, Post Falls, Spokane and several other small towns. This is the zone which will receive high priority for project review.

There is an upstream headwaters area draining into the recharge zone and contributing over 90 percent of the recharge flow to the Aquifer. This is the streamflow source zone. EPA may also review projects in this outlying zone. Since such a high percentage of the recharge flow to the Aquifer originates in this area, it could have a significant impact on the quality of the water in the Aquifer. This streamflow or lake source includes the drainage area of the Spokane River-Coeur d'Alene Lake Basin (approximately 5,000 square miles) and, therefore, encompasses the area to be designated a "sole source." Some recharge occurs from precipitation on the Aquifer but the major recharge comes from Spirit Lake, Twin Lakes, Hayden Lake, Coeur d'Alene Lake, Hauser Lake, Newman Lake, Liberty Lake, Spokane River and miscellaneous tributary streams from secondary upland flow onto the Aquifer recharge zone. The area includes much of the counties of Kootenai, Benewah and Shoshone, Idaho and Spokane, Wash., and parts of the counties of Lincoln and Whitman, Wash., and Latah and Clearwater, Idaho.

The designated area includes the drainage and recharge areas to the Aquifer. The surface water drainage basin above the Pend Oreille Lake (22,900 square miles) is not included within the designated area because recharge from Pend Oreille Lake to the Aquifer is small (about 50 cubic feet per second). It is doubtful that a project located in the drainage basin above the outlet of Pend Oreille Lake could significantly impact the Aquifer.

The ground-water divide between the Aquifer and the Pend Oreille River Basin is not accurately known. Therefore, this short stretch of the boundary has been determined by applying the best hydrogeological judgment contained in the background document prepared by the U.S. Geological Survey.

The data upon which these findings are based are available to the public and may be inspected during normal business hours at the office of the Environmental Protection Agency, M/S

605, Region X, 1200 Sixth Avenue, Seattle, Wash. 98101, and at the following public libraries: Spokane, West 906 Main Street, Spokane County, East 11811 First Avenue, Wash., and 702 Lakeside, Coeur d'Alene, Idaho. The data include:

(1) Maps outlining the Spokane Valley-Rathdrum Prairie Aquifer, the recharge zone and the streamflow source zone (major replenishment area);

(2) The exact coordinates of the designated area which includes the recharge zone and the streamflow source zone;

(3) A copy of the transcript of the public hearing and copies of public comments; and

(4) A technical support document for designation of the Spokane Valley-Rathdrum Prairie Aquifer under section 1424(e) of the Safe Drinking Water Act.

A copy of the above documentation is also available at the U.S. Environmental Protection Agency, Office of Public Awareness, 401 M Street SW., Washington, D.C. 20460.

The proposed National Regulations for Implementation of section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523, FEDERAL REGISTER dated September 29, 1977) contain the procedures for review of Federal financially assisted programs or actions which may contaminate "Sole Source" aquifers through the recharge zone so as to create a significant hazard to public health.

EPA Region X is working with the Federal agencies, which may in the near future fund projects in the area of concern to EPA, to develop interagency procedures whereby EPA will be notified of proposed commitments for projects which could contaminate the aquifer. Although the project review process cannot be delegated, the Regional Administrator in Region X will rely to the maximum extent possible upon any existing or future State and local control mechanisms in protecting the ground-water quality of the Spokane Valley-Rathdrum Prairie Aquifer.

Dated: January 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-3475 Filed 2-8-78; 8:45 am]

[6560-01]

[FRL 852-4; OPP-66041]

PESTICIDE PROGRAMS

Cancellation of Registration of Pesticide Products

Pursuant to section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C.

136(a) et seq.), the firms listed below have requested that the Environmental Protection Agency (EPA) cancel the registrations of several pesticide products. Such cancellation shall be effective within 30 days after receipt of a certified letter from EPA or publication of this notice in the FEDERAL REGISTER, whichever occurs later, unless the registrant or an interested person with the concurrence of the registrant, requests that the registration be continued in effect.

The Agency has determined that the distribution and sale of stocks of these products which were in existence on the effective date of cancellation would not be inconsistent with the purposes of FIFRA and would not have an unreasonable adverse effect on the environment. Pursuant to section 6(a)(1) of FIFRA, therefore, the distribution and sale of existing stocks of these products shall be permitted until the supply is exhausted or for one year from receipt of the notice of intended cancellation sent to each registrant by certified mail, whichever occurs earlier; *Provided*, That these products shall be used only in a manner consistent with the label and labeling registered with EPA.

Requests that the registration of these products be continued may be submitted in triplicate to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. Any comments filed regarding this notice of intended cancellation will be available for public inspection in the office of the Product Control Branch from 8:30 a.m. to 4 p.m. Monday through Friday.

The registrants concerned and the products affected by this action are listed below.

Dated: February 2, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

EPA Reg. No.	Product name	Registrant
4-137.....	Bonide Paris Green Pellets Mosquito Larvicide.	Bonide Chemical Co., 2 Wurz Ave., Yorkville, N.Y. 13495.
88-15.....	Dogonex Dog Repellent Outdoor Spray.	The Hyponex Co., Inc., P.O. Box 4300, Copley, Ohio 44321.
100-489.....	Geigy Garden-Tox.	Ciba-Geigy Corp., Agricultural Division, P.O. Box 11422, Greensboro, N.C. 27409.
108-36.....	Rawleigh Malathion Insecticide Powdered.	W. T. Rawleigh Co., 223 East Main St., Freeport, Ill. 61032.